

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No(s). 5976 OF 2019
(Arising out of SLP(C) No(s).18232 OF 2019
@ SLP(C) DIARY NO.27982 OF 2017)

HUCHANAGOUDA

Appellant(s)

VERSUS

THE ASSISTANT COMMISSIONER AND
LAND ACQUISITION OFFICER & ANR.

Respondent(s)

WITH
CIVIL APPEAL No(s).5977 OF 2019
(Arising out of SLP(C) No(s).18233 OF 2019
@ SLP(C) Diary No(s). 27981/2017)

J U D G M E N T

BANUMATHI, J:

(1) Leave granted.

(2) The Government notified the lands in-question for acquisition for the purpose of rehabilitating the Veerapur villagers on account of implementation of Hirehalla project on 16.10.2003. The Land Acquisition Officer passed the award dated 08.03.2006 fixing the value of the land at the rate of Rs.24,500/- per acre. In reference, the Court raised the market value to Rs.1,26,500/- per acre. In appeal, the High Court has taken into account the market value determined in respect of acquisition under another Notification dated 24.11.1994, pointing out that the present notification is dated 16.10.2003 and there being a gap of about eight years and ten months and twenty two days from the earlier Notification dated 24.11.1994, the High court granted 5% escalation for the gap of

about nine years between 24.11.1994 and 16.10.2003 and arrived at the market value of Rs.1,55,133/- which is rounded off to Rs.1,56,000/- per acre. Being aggrieved, the claimants have preferred these appeals seeking further enhancement.

(3) We have heard Mr. Sharanagouda Patil, learned counsel appearing for the appellants and Mr. Navin R. Nath, learned counsel appearing for respondent No.2 and also perused the impugned judgment and the materials on record.

(4) Mr. Navin R. Nath, learned counsel appearing for the respondent, has submitted that SLP(C)No.22784 of 2016 arising out of the same project had been filed by another land owner. The said special leave petition was mainly dismissed by this Court vide Order dated 10.01.2018 mainly on the ground of delay in filing the special leave petition.

(5) Mr. Sharanagouda Patil, learned counsel appearing for the appellants-claimants, has placed reliance on the judgment of this Court in Imrat Lal and Others v. Land Acquisition Collector and Others, (2014) 14 SCC 133, and has submitted that in case of land acquisition matters there is necessity to take the judicial notice of the fact that in India villagers are by and large poor and therefore the delay in filing the special leave petition cannot be the reason to deny the just and fair compensation to the claimants. It was submitted that the Court should adopt liberal approach where there is a delay in filing the special leave petition. This Court in para '11' of Imrat Lal (Supra) has held as under:

"11. We can take judicial notice of the fact that villagers in our country are by and large illiterate and are not conversant with the intricacies of law. They are usually guided by their co-villagers, who are familiar with the proceedings in the Courts or the advocates with whom they get in touch for redressal of their grievance. Affidavits filed in support of the applications for condonation of delay are usually drafted by the advocates on the basis of half baked information made available by the affected persons. Therefore, in the acquisition matters involving claim for award of just compensation, the Court should adopt a liberal approach and either grant time to the party to file better affidavit to explain delay or suo motu take cognizance of the fact that large number of other similarly situated persons who were affected by the determination of compensation by the Land Acquisition Officer or the Reference Court have been granted relief."

(6) We further take note that this Court in the case of Dhiraj Singh (Dead) Thr. Lrs. And Others v. State of Haryana and Others, (2014) 14 SCC 127, has considered the issue relating to condonation of delay in land acquisition matters and the manner in which the equities are to be balanced. It is held therein as hereunder:

"15. Equities can be balanced by denying the appellants' interest for the period for which they did not approach the Court. The substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hypertechnical view of self-imposed limitations. In the matter of compensation for land acquisition, we are of the view that approach of the court has to be pragmatic and not pedantic.

16. The principles regarding condonation of delay particularly in land acquisition matters, have been enunciated in Collector (LA) v. Katiji, (1987) 2 SCC 107, wherein it is sated in para 3 as under:

"3. The legislature has conferred the power to condone delay by enacting Section 5 of the Limitation Act of 1963

in order to enable the courts to do substantial justice to parties by disposing of matters on 'merits'. The expression 'sufficient cause' employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice - that being the life-purpose for the existence of the institution of courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other courts in the hierarchy. And such a liberal approach is adopted on principle as it is realised that:

(1) Ordinarily a litigant does not stand to benefit by lodging an appeal late.

(2) Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

(3) 'Every day's delay must be explained' does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

(4) When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserved to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

(5) There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

(6) It must be grasped that judiciary is respected not on account of its power to legalise injustice on

technical grounds but because it is capable of removing injustice and is expected to do so."

Further, even if the consideration is made on merits after condoning the delay, the determination of the market value will in all event relate back to the date of preliminary notification and as such there is no prejudice to the acquisition authority nor added advantage to the land loser. The aspect relating to interest can be taken care by denying it to the land loser for the period of delay.

(7) Following the above judgment and for the further reasons assigned above, in our view the delay of 2154 days in filing and 252 days in refiling S.L.P.(C) Diary No.27982 of 2017 as also the delay of 2109 days in filing and 250 days in refiling S.L.P.(C)Diary No.27981 of 2017 cannot be a reason to deny the consideration of the matter on merits regarding the claim of the appellant for just and fair compensation.

(8) The High Court has granted 5% escalation for the gap of about nine years between 24.11.1994 and 16.10.2003. Admittedly, the acquisition of the land was for rehabilitating the Veerapur villagers on account of implementation of Hirehalla Project. Learned counsel appearing for the appellants has submitted that though the acquired land on the date of acquisition was agricultural land the very fact that it is acquired for rehabilitation which is non-agricultural use, the same has the potential for development for being converted into building sites and had the potential of being put to

better use. Reliance was placed by learned counsel for the appellants on the judgment of this Court in General Manager, Oil and Natural Gas Corporation Limited v. Rameshbhai Jivanbhai Patel and Another, (2008) 14 SCC 745. Pointing out that there should be significant increases in the market value of the land in para '14' of Rameshbhai (supra) it was held by this Court which reads as under :

"14. On the other extreme, in remote rural areas where there was no chance of any development and hardly any buyers, the prices stagnated for years or rose marginally at a nominal rate of 1% or 2% per annum. There is thus a significant difference in increases in market value of lands in urban/semi-urban areas and increases in market value of lands in the rural areas. Therefore if the increase in market value in urban/semi-urban areas is about 10% to 15% per annum, the corresponding increases in rural areas would at best be only around half of it, that is about 5% to 7.5% per annum. This rule of thumb refers to the general trend in the nineties, to be adopted in the absence of clear and specific evidence relating to increase in prices. Where there are special reasons for applying a higher rate of increase, or any specific evidence relating to the actual increase in prices, then the increase to be applied would depend upon the same."

(9) In the present case, though the land is stated to be an agricultural land in Veerapur Village, considering the potentiality of the land for development, the escalation is granted at the rate of 10% with cumulative effect as under :

"1994 -	Rs.1,00,000/-
1995 -	Rs.1,10,000/-
1996 -	Rs.1,21,000/-
1997 -	Rs.1,33,100/-
1998 -	Rs.1,46,410/-
1999 -	Rs.1,61,051/-
2000 -	Rs.1,77,156/-
2001 -	Rs.1,94,872/-
2002 -	Rs.2,14,359/-
2003 -	Rs.2,35,795/-"

(10) Awarding 10% increase, the appellants-claimants are entitled to Rs.2,35,795/- per acre. Accordingly, the compensation awarded to the appellants-claimants is enhanced to Rs.2,35,795/- per acre. Needless to point out that for the period of delay in filing and in refileing the special leave petitions the appellants-claimants shall not be entitled to any interest on the enhanced compensation and statutory amount.

(11) The impugned judgment(s) of the High Court is modified to the extent indicated above and the appeals are partly allowed. There shall be no order as to costs.

.....J.
(R. BANUMATHI)

.....J.
(A.S. BOPANNA)

NEW DELHI,
JULY 30, 2019.